



**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

1/5.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/889,319	07/08/97	WALKER J	

WALKER DIGITAL CORPORATION  
FIVE HIGH RIDGE PARK  
STAMFORD CT 06905-1326

LM02/0325

EXAMINER  
CAUDLE, P

ART UNIT	PAPER NUMBER
2765	

DATE MAILED: 03/25/99

6

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/889,319**

Applicant(s)  
**Walker et al**

Examiner  
**Penny Caudle**

Group Art Unit  
**2765**

☒ Responsive to communication(s) filed on Apr 4, 1998

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 98-128 claims 1-97 canceled by applicant is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 98-128 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 2765

### DETAILED ACTION

1. In response to the preliminary amendment filed on April 27, 1998 claims 1-128 have been examined. Claims 1-97 have been canceled by applicant and new claims 98-128 have been added.

#### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 98 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 08/923,618. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claim 98 of the instant application are taught in claims 1 and 6 of the copending application with only obvious variations. Regarding claim 98

Art Unit: 2765

and claim 6 of the copending application, they differ only in the application of the claimed method. Claim 98 applies the method to a generic sale and claim 6 of the copending application applies the method to the specific sale of cruise tickets. It would be obvious to one of ordinary skill in the art to apply the method claimed in claim 1 to the sale of cruise tickets in order to provide multiple products or service for the customer to purchase. Regrading claim 98 and claim 1 of the copending application, in addition to the difference in application as discussed above with reference to claim 6, the claimed methods differ in specification of the condition provided with the offer. Claim 98 specifies that the condition includes a price where as claim 1 of the copending application specifies only that at least one condition exists. It would be obvious to one of ordinary skill in the art to implement the method claimed in claim 1 of the copending application with the addition of the condition including a price in order to ensure that the customer does not pay more for the item than he deems appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. Claim 98 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 8 of copending Application No. 08/964,967. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claim 98 of the instant application are taught in claim 8 of the copending application with only obvious variations. Regrading claim 98 and claim 8 of the copending application, they differ in the application of the claimed method. Claim 98

Art Unit: 2765

applies the method to a generic sale and claim 6 of the copending application applies the method to the specific sale of secondary market items. It would be obvious to one of ordinary skill in the art to apply the method claimed in claim 1 to the sale of secondary market items in order to provide multiple products or services for the customer to purchase. In addition, the claimed methods differ in specification of the condition provided with the offer. Claim 98 specifies that the condition includes a price where as claim 8 of the copending application specifies only that a condition exists. It would be obvious to one of ordinary skill in the art to implement the method claimed in claim 8 of the copending application with the addition of the condition including a price in order to ensure that the customer does not pay more for the item than he deems appropriate.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claim 99 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 25 of copending Application No. 08/943,483. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claim 99 of the instant application are taught in claim 25 of the copending application with only obvious variations. Regarding claim 99 and claim 25 of the copending application, the claimed methods differ only in specification of the condition provided with the offer. Claim 99 specifies that the offer includes a price and a condition, where as claim 25 of the copending application specifies that the condition is a

Art Unit: 2765

description of the item to be purchased. It would be obvious to one of ordinary skill in that art to implement the method claimed in claim 99 with the addition of the condition being a description of the item to be purchased in order to ensure that the item under consideration is what the buyer wishes to purchase.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

6. Claims 100 and 101 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 26 and 27 of copending Application No. 08/943,483. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claims 100 and 101 of the instant application are taught in claims 26 and 27 of the copending application with only obvious variations. Regarding claims 100 and 101 and claims 26 and 27 of the copending application, the claimed methods differ only in specification of the condition provided with the offer. Claim 100 and 101 specify that the offer includes a price and a condition, whereas claims 26 and 27 of the copending application specify that the condition is a description of the item to be purchased. It would be obvious to one of ordinary skill in that art to implement the method claimed in claims 100 and 101 with the addition of the condition being a description of the item to be purchased in order to ensure that the item under consideration is what the buyer wishes to purchase.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 2765

7. Claim 100 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 9 of copending Application No.08/964,967 . Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claim 100 of the instant application are taught in claim 9 of the copending application with only obvious variations. Regarding claim 100 and claim 9 of the copending application, they differ in the application of the claimed method. Claim 100 applies the method to a generic sale and claim 9 of the copending application applies the method to the specific sale of secondary market items. It would be obvious to one of ordinary skill in the art to apply the method claimed in claim 100 to the sale of secondary market items in order to provide multiple products or services for the customer to purchase. In addition, the claimed methods differ in specification of the condition provided with the offer. Claim 100 specifies that the condition includes a price where as claim 9 of the copending application specifies only that a condition exists. It would be obvious to one of ordinary skill in the art to implement the method claimed in claim 9 of the copending application with the addition of the condition including a price in order to ensure that the customer does not pay more for the item than he deems appropriate..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Claims 113 and 114<sup>9</sup> are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 6 and 8 of copending

Art Unit: 2765

Application No. 08/923,618. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claims 113 and 114 of the instant application are taught in claims 1, 3, 6 and 8 of the copending application with only obvious variations. Regrading claims 113 and 114 and claims 1 and 3 of the copending application, they differ in the application of the claimed method. Claims 113 and 114 apply the method to the sale of airline tickets and claims 1 and 3 of the copending application apply the method to the sale of cruise tickets. It would be obvious to one of ordinary skill in the art to apply the method claimed in claims 113 and 114 to the sale of cruise tickets in order to provide multiple products or services for the customer to purchase. In addition, the claimed methods differ in specification of the condition provided with the offer. Claims 113 and 114 specify that the condition includes a price where as claims 1 and 3 of the copending application specify only that a condition exists. It would be obvious to one of ordinary skill in the art to implement the method claimed in claims 1 and 3 of the copending application with the addition of the condition including a price in order to ensure that the customer does not pay more for the item than he deems appropriate. Regarding claims 113 and 114 and claims 6 and 8 of the copending application, they differ only in the application of the claimed method. Claims 113 and 114 apply the method to the sale of airline tickets and claims 6 and 8 of the copending application apply the method to the sale of cruise tickets. It would be obvious to one of ordinary skill in the art to apply the method claimed in claims 113 and 114 to the sale of cruise tickets in order to provide multiple products or services for the customer to purchase.



Art Unit: 2765

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

9. Claim 117 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 08/923,618. Although the conflicting claims are not identical, they are not patentably distinct from each other because all the limitations of claim 117 of the instant application are taught in claims 1 and 6 of the copending application with only obvious variations. Regarding claim 117 and claims 1 and 6 of the copending application, they differ only in the application of the claimed method. Claim 117 applies the method to the sale of airline tickets and claims 1 and 6 of the copending application apply the method to the sale of cruise tickets. It would be obvious to one of ordinary skill in the art to apply the method claimed in claim 117 to the sale of cruise tickets in order to provide multiple products or services for the customer to purchase. In addition, claim 117 and claims 1 and 6 of the copending application differ in the specification of the restriction contained in the seller rule. Claim 117 specifies that the restriction includes a seller price where as claims 1 and 6 only specify that restrictions exists. It would be obvious to one of ordinary skill in the art to implement the methods claimed in claims 1 and 6 of the copending application with the addition of specifying that the restriction include a seller price in order to ensure that the seller gets a price which he deems appropriate for he's product.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Art Unit: 2765

*Claim Rejections - 35 USC § 112*

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claims 98, 112, 116, 117, 123 and 127 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims do not accomplish what the preamble sets forth.

As per claims 98, 112, 116 it is unclear how the claimed steps, (a) receiving a conditional purchase offer, (b) identifying a rule from a seller, and (c) determining whether the condition satisfies the restriction, allow for processing a sale.

As per claim 123 and 127, it is unclear how the claimed steps, (a) providing a conditional purchase offer for travel, and (b) obtaining a reservation for travel on an airline for the price, allow for processing sales of airline tickets.

12. Claim 107 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the seller fare is disclosed or not, as claim 106 states the restriction includes a seller fare and claim 107 which depends from claim 106 states the seller fare is undisclosed.

Art Unit: 2765

13. Claim 124 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear whether the seller fare is disclosed or not, as claim 123 states the restriction includes a seller fare and claim 124 which depends from claim 123 states the seller fare is undisclosed.

***Claim Rejections - 35 USC § 101***

14. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

15. Claims 98-128 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 98-111, 113-115, 117-121 and 123-128, the utility of an invention must be within the "technological" arts, i.e. an application of science and engineering to the development of machines and procedures in order to enhance or improve human efficiency. This may occur by a having post-computer processing activity, manipulating data to achieve a practical application, or through the claiming of a specific machine or manufacture. As claimed the applicant's invention is not in the technical arts, i.e. the claimed method is not computer implemented.

Art Unit: 2765

As per claims 98-102, 105-117, 119-122 and 128, a process that merely manipulates an abstract idea or performs a purely mathematical algorithm is nonstatutory. For subject matter to be statutory, the claimed process must be limited to a practical application of the abstract ideas or mathematical algorithm in the technological arts. As claimed, the applicant's invention has no practical application in the technological arts. The claimed invention merely manipulates data concerning a conditional offer in order to determine whether the condition satisfies a restriction, with no reference to a practical application. However, if the claimed invention made reference to a practical application, such as accepting or rejecting the conditional offer, the subject matter would be statutory.

***Claim Rejections - 35 USC § 102***

16. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

17. Claims 98-100, 102, 103, 105, 106, 112-119, 122, 123, 125, 127 and 128 are rejected under 35 U.S.C. 102(a) as being anticipated by Webber et al (U.S. 5,331,546).

As per claims 98, 113 and 117, Webber et al disclose a method for processing a sale comprising:

Art Unit: 2765

-receiving a conditional purchase offer that includes a price and a condition, as stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...";

-identifying a rule from a seller, the rule including a restriction, as stated in column 3 lines 49-52, "The rules file contains in machine-readable form the rules governing the use of particular fares for particular flights or itineraries, specifying, for example, that a particular fare may be used only on weekend flights.";

-determining whether the condition satisfies the restriction, as stated in column 7 lines 53-60, "The purpose of the flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in..."

As per claim 99, Webber et al disclose all the limitations as set forth in claim 98 above with the addition of receiving a payment identifier specifying a financial account, the identifier being associated with the conditional purchase offer. As stated in column 3 lines 36-40, "The traveler file contains, also in machine-readable form...personal profiles of individual travelers (such as credit card numbers..."

As per claim 100, Webber et al disclose all the limitations as set forth in claim 99 above with the addition of providing a payment to the seller by using the payment identifier if the condition satisfies the restriction. As shown in Figure 2 step 44 and Figure 8B step 336.

Art Unit: 2765

As per claim 102, Webber et al disclose all the limitations as set forth in claim 99 above with the addition of receiving authorization to use the payment identifier to provide a payment if the condition satisfies the restriction. As stated in column 4 lines 42-50, "...then books the selected itinerary."

As per claim 103, Webber et al disclose all the limitations as set forth in claim 98 above with the addition of providing an acceptance of the conditional purchase offer if the condition satisfies the restriction. As stated in column 4 lines 42-50, "...then books the selected itinerary."

As per claim 105, Webber et al disclose all the limitations as set forth in claim 98 above with the addition of identifying a rule based on the conditional purchase offer. As stated in column 3 lines 49-52, "The rules file contains in machine-readable form the rules governing the use of particular fares for particular flights or itineraries..." and in column 7 lines 53-60, "The purpose of the flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in..."

As per claim 106, Webber et al disclose all the limitations as set forth in claim 98 above with the addition of the rule includes a seller price which a seller is willing to accept. As stated in column 3 lines 49-52, "The rules file contains...rules governing the use of particular fares for particular flights..."

As per claims 112, 116 and 122, Webber et al disclose an apparatus for processing a sale comprising:

Art Unit: 2765

-a memory, as stated in column 5 lines 22-36, "...processor 18 includes, or communicates with a storage device...";

-a processor in communication with the memory, the memory storing a program, as stated in column 5 lines 22-36, "...processor 18 includes, or communicates with a storage device...";

-the processor operative with the program to:

-receive a conditional purchase offer that includes a price and a condition, as stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...";

-identify a rule from a seller, the rule including a restriction, as stated in column 3 lines 49-52, "The rules file contains in machine-readable form the rules governing the use of particular fares for particular flights or itineraries, specifying, for example, that a particular fare may be used only on weekend flights.";

-determine whether the condition satisfies the restriction, as stated in column 7 lines 53-60, "The purpose of the flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in...".

As per claim 114, Webber et al disclose all the limitations as set forth in claim 113 above with the addition of the condition specifies an itinerary. As stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...".

Art Unit: 2765

As per claim 115, Webber et al disclose all the limitations as set forth in claim 114 above with the addition of the itinerary includes an indication of acceptable origin and destination cities for travel and acceptable dates and time of departure and return. As stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...".

As per claim 118, Webber et al disclose all the limitations as set forth in claim 117 above with the addition of obtaining a reservation for the airlines seat if the condition satisfies the restriction. As shown in Figure 2 step 44.

As per claim 119, Webber et al disclose all the limitations as set forth in claim 117 above with the addition of allocating a fare class containing the airline seat for sale to the customers. As shown in Figure 8B step 336.

As per claim 123, Webber et al disclose a method for processing sales of airline tickets comprising:

- providing a conditional purchase offer for travel, the conditional purchase offer including a price and a condition, as stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...";

- obtaining a reservation for travel on an airline for the price if the condition satisfies a restriction that includes a seller fare, as stated in column 7 lines 53-60, "The purpose of the flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip



Art Unit: 2765

request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in..." and Figure 2 step 44.

As per claim 125, Webber et al disclose all the limitations as set forth in claim 123 above with the addition of providing a payment identifier specifying a financial account, the identifier being associated with the conditional purchase offer. As stated in column 3 lines 36-40, "The traveler file contains, also in machine-readable form...personal profiles of individual travelers (such as credit card numbers..."

As per claim 127, Webber et al disclose an apparatus for processing sales of airline tickets comprising:

- a memory, as stated in column 5 lines 22-36, "...processor 18 includes, or communicates with a storage device..."

- a processor in communication with the memory, the memory storing a program, as stated in column 5 lines 22-36, "...processor 18 includes, or communicates with a storage device..."

- the processor operative with the program to:

- provide a conditional purchase offer for travel, the conditional purchase offer including a price and a condition, as stated in column 7 lines 7-12, "...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints..."

- obtain a reservation for travel on an airline for the price if the condition satisfies a restriction that includes a seller fare, as stated in column 7 lines 53-60, "The purpose of the

Art Unit: 2765

flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in...” and Figure 2 step 44.

As per claim 128, Webber et al disclose a method using a computer to process a sale comprising:

- inputting a plurality of rules received from a seller, each rule including at least one restriction relating to the sale, as stated in column 3 lines 49-52, “The rules file contains in machine-readable form the rules governing the use of particular fares for particular flights or itineraries...”;

- inputting a conditional purchase offer, the conditional purchase offer including a price, a condition relating to the sale, and a credit card identifier, as stated in column 7 lines 7-12, “...the travel arranger specifies a trip (e.g. by specifying the origin and destination and the time window...the traveler...and enters any appropriate constraints...”, and in column 3 lines 36-40, “The traveler file contains, also in machine-readable form...personal profiles of individual travelers (such as credit card numbers...”;

- receiving authorization to pay the price with the credit card identifier if a rule from the plurality of rules satisfies the conditional purchase offer, as stated in column 4 lines 42-50, “...then books the selected itinerary.”;

- identifying a rule based on the conditional purchase offer and comparing the restriction associated with the identified rule to the condition of the purchase offer, as stated in column 7

Art Unit: 2765

lines 53-60, "The purpose of the flight search procedure illustrated...is to find all of the itineraries which could be used to satisfy the trip request being processed...which meet the constraints of the relevant policy file and traveler file and any other constraints that may have been keyed in..." ;

-outputting a signal indicating if the restriction associated with the identified rule satisfies the condition of the purchase offer, as stated in column 16 lines 39-41, "...displays at step 296 the N itineraries with fares at the screen of the travel arranger's equipment." .

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 101, 104, 107-109, 120, 121, 124 and 126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webber et al (U.S. 5331,546).

As per claim 101, Webber et al disclose all the limitations as set forth in claim 98 above. Webber et al fails to disclose receiving a revocation of the conditional purchase offer after the step of determining whether the condition satisfies the restriction. Official Notice is given that revocation of offers are old and well known in the business art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method taught by Webber et al with the added step of receiving revocation of the offer in

Art Unit: 2765

order to allow the offerer the opportunity to revoke the offer in the event the condition and the restriction do not satisfy each other.

As per claim 104, Webber et al disclose all the limitations as set forth in claim 98 above. Webber et al fails to disclose generating a counteroffer if the seller does not accept the conditional purchase offer and the conditional purchase offer is within a predefined tolerance of the restriction. Webber et al does disclose providing counteroffers or offers which are a best fit for the submitted offer (col. 6 lines 61-63). Therefore it would have been obvious to generate counteroffers when the seller does not accept the submitted offer and the conditional purchase offer is within predefined range or tolerance of the restriction in order to ensure that the counter offers are within acceptable limits of the seller's restrictions and the offerer's original conditions.

As per claim 107 and 124, Webber et al disclose all the limitations as set forth in claims 106 and 123 above. Webber et al fail to disclose the seller price is undisclosed. Official Notice is given that non disclosure of seller price is old and well known in offer or bidding systems (i.e. silent or closed auction systems). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the system taught by Webber et al without disclosure of the seller price in order to allow the seller to receive the greatest price acceptable to the buyer for the product.

As per claim 108, Webber et al disclose all the limitations as set forth in claim 106 above. Webber et al fail to disclose preventing the customer submitting the conditional purchase offer from determining the seller price. Official Notice is given that non disclosure of seller price is

Art Unit: 2765

old and well known in offer or bidding systems (i.e. silent or closed auction systems). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the system taught by Webber et al without disclosure of the seller price to the buyer in order to allow the seller to receive the greatest price acceptable to the buyer for the product.

As per claim 109, Webber et al disclose all the limitations as set forth in claim 108 above. Webber et al fail to disclose limiting the number of conditional purchase offers which may be received from a customer in a predefined period. Official Notice is given that the limiting of customer participation in sales or promotions is old and well known in the business art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to implement the method taught by Webber et al with the addition of limiting the number of offers which may be submitted by a customer within a predefined period of time in order to prevent a customer from taking advantage of a particular offer.

As per claim 120, Webber et al disclose all the limitations as set forth in claim 117 above. Webber et al fails to disclose the defining of restrictions is performed by a revenue management system. Official Notice is given that the generation of fare codes or restrictions concerning fares and airline tickets by revenue management systems are old and well known in the art. Therefore it would have been obvious to one of ordinary skill in the art to implement the method taught by Webber et al with the use of revenue management systems to generate fare codes or restrictions in order to optimize revenue.

Art Unit: 2765

As per claim 121, Webber et al disclose all the limitations as set forth in claim 117 above. Webber et al fail to disclose defining rules for generating a counteroffer if the conditional purchase offer is within a predefined tolerance of the restriction. Webber et al does disclose providing counteroffers or offers which are a best fit for the submitted offer (col. 6 lines 61-63). Therefore it would have been obvious to define rules for generating counteroffers in order to ensure that the counter offers are with in acceptable limits of the seller's restrictions.

As per claim 126, Webber et al disclose all the limitations as set forth in claim 125 above. Webber et al fails to explicitly disclose providing authorization to use the payment identifier to provide a payment if the condition satisfies the restriction. Official Notice is given that the use of credit cards or other payment identifiers and receiving authorization for their use is old and well known in the business art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to provide authorization to use the payment identifier to complete the transaction if the conditional offer was satisfied by the seller restriction(s) in order to ensure that the customer agrees with the terms of the purchase.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

-Huberman (U.S. 5,826,244) discloses a system and method to facilitate networked, automated, brokered auctioning of document services.

Art Unit: 2765

-Silverman et al (U.S. 5,136,501) discloses a matching system for trading instruments in which bids are automatically matched against offers.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Penny Caudle whose telephone number is (703) 305-0756. The examiner can normally be reached Monday-Thursday from 6:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen MacDonald, can be reached at (703) 305-9708.

The fax number for Formal or Official faxes to Technology Center 2700 is (703) 308-9051 or 9052. Draft or Informal faxes for this Art Unit can be submitted to (703) 305-0040.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

plc

March 21, 1999



ALLEN R. MACDONALD  
SUPERVISORY PATENT EXAMINER